



Maine Developmental Disabilities Council

February 27, 2024

Testimony Neither For Nor Against LD 345 An Act Regarding Educational Policies and Programs. Senator Rafferty, Representative Brennan and the distinguished members of the Committee on Education and Cultural Affairs:

My name is Nancy Cronin and I am the Executive Director of the Maine Developmental Disabilities Council¹.

We have to do something. The Council is well aware that it is not enough to just direct the Department to answer questions and continue to plan. I appreciate this bill as a platform, and I appreciate you reading my suggestions. This bill, as written, needs tweaking to prevent serious risk to children and schools.

Recommendations:

We recommend that you adopt the “Advocates Language” attached to this testimony with a few exceptions.

¹ Councils on Developmental Disabilities were created through the Developmental Disabilities Assistance and Bill of Rights Act (DD Act) in 1970. Maine’s DD Council has been advocating for individuals with developmental disabilities for nearly 50 years. The DD Council is a federally funded, independent organization with members from across the state, including persons with disabilities, family members, and representatives of public and private agencies which provide services and/or funding for services for individuals with developmental disabilities. As required in federal law, we are involved in advocacy, capacity building and systemic change activities, with the goal that individuals with developmental and other disabilities of all ages are fully included, integrated, and involved in their communities and the decisions impacting their lives.

MDDC appreciates that there are early adopters and want to encourage those early adopters to move forward. But we do not think that the Department is ready to guide those who have not gotten to the point of being ready. To provide a clearer timeline that complements the “Advocates Language” see below.

Year 1 (2024/2025)

- **DOE Develop the Maine Preschool IDEA Monitoring Process to identify what metrics are necessary to include in a Readiness Tool:** The first year (2024/2025) the Department should develop how they will monitor SAUs ability to provide FAPE to Part B §619. The language in the “advocates language” refers to this as the Maine Preschool IDEA Monitoring Process. This type of process is used in most States that have transitioned to local SAUs. **The Maine Preschool IDEA Monitoring Process should assure preschool children with disabilities have improved outcomes and access to a Free Appropriate Public Education (FAPE) in the individualized Least Restrictive Environment (LRE) as required by federal IDEA and State standards. This Process should define and implement a schedule to monitor SAU’s using quantifiable indicators in order to adequately measure performance in SAU’s provision of FAPE in the least restrictive environment, ability to engage in Child Find, transition to readiness, and other measures as required in IDEA 300.600, in §300.43 and in 20 U.S.C. 1437(a)(9).** (see <https://sites.ed.gov/idea/regs/b/f/300.600>) Then
 - Develop, Publish, and Distribute to SAUs Readiness Assessment
 - Develop, Publish, and Distribute to SAUs a sample Local Early Childhood System Plan that SAUs can use to model their own plan to take on FAPE to Part B §619. This plan will be submitted and approved in year 2, 3, or 4 of this transition process by the Department to be piloted. And the Department should
 - Develop a schedule for visiting SAUs to conduct monitoring.
- **Developing an Invoicing System** to reimburse SAUs for **actual costs**. This system will work with parents to obtain consent, bill Medicaid, negotiate billing rates with insurance companies and then bill insurance, track costs by service and disability type within the plan. By paying for 100% of costs Maine will be in compliance with the mandate law. It will be challenging enough for many SAUs to take on this new responsibility and this invoicing system will make it more

possible. Further, by tracking the costs Maine will be able to better anticipate costs and possible future share with local communities.

- **Develop Regional Hubs while supporting CDS to provide services and meet the needs of Maine’s young eligible children.**
- **Enter into Memorandum of Understandings with SAUs ready to pilot FAPE.**
After this pilot year the SAU should still be required to submit a Local Early Childhood System Plan to move from pilot to being fully responsible for FAPE.
- **Annually report on the progress of the transition to this body and quantified metrics collected as a result of the monitoring process.**

Year 2 (25/26), 3 (26/27), and 4 (27/28) the Department will manage billing, review Local Early Childhood System Plans, gradually transition CDS to the Regional Hubs, and Support Local Pilots as described in the “Advocates Language.”

As far as the existing language proposed in this bill, we have many concerns. But our most serious concerns includes:

- **Reference to being educated or enrolled in a Pre-K Classroom.** It is our understanding that not all school districts provide pre-k classrooms and many of them do not offer the program for all children who want it. It is critical to not have this language reference “pre-k classroom” without Universal Pre-K and even then it might not be the only setting for Part B §619. Not only is that inaccurate but it is rife with potential misunderstandings.

For example, last year the State came into compliance with IDEA and passed statute that ensured services to eligible youth until their 21st birthday. Many argued that as schools provided no services for youth without disabilities who are 21 there is no requirement for FAPE. I fear that this might be a misunderstanding here as well.

Further, a Pre-K Classroom may be the Least Restrictive Environment or a child care setting might be better. If the Individualized Education Plan (IEP) team determines that a pre-k classroom is the most appropriate setting than the parent should not need to “enroll” into the program, the pre-k setting becomes a part of his or her IEP.

Clearly transitioning to Part B 619 needs to be clarified and better defined. Similarly, Least Restrictive Environment needs to be clarified and emphasized in this language. Specifically:

- 1-D “Child eligible under IDEA Part B §619 means a pre-K student who is 3, 4, or 5 years of age and requires special education and related services in order to access a free, appropriate, public, education in a ***pre-K classroom.***”
- 3-C Extended Part C Option. ... “if they continue to qualify, they either **enroll in a pre-K classroom** to receive services through an IEP or they may remain in the “natural setting”...
- **Ensuring Least Restrictive Environment and Inclusion**
- **Clear transition to SAUs.**
 - ChildFind is a critical part of IDEA and Muser. However, it is clear to us that many districts do not understand HOW and WHAT ChildFind means in relation to small children who are not already attending school. Before ChildFind is transferred to the SAU there should be clear guidance that specifies how a child is to be found when they are not enrolled in the program. How SAUs must have clear relationships with community entities such as childcare and medical practices to receive referrals. How SAUs must act upon a referral and what those actions must be to assess a child in the environment that the child is used to being in. How might SAUs send staff to these off-site areas such as sending staff to homes?
 - Readiness Assessments. I was surprised in the Questions and Responses Document presented to the Committee February 1, 2024 regarding the CDS Briefing – LD 1528. The request by the committee asked for copies of the community readiness assessment tool that the Department is using with SAUs. They responded that they were using the readiness tool designed for the implementation of public pre-k. There are so many questions that the Committee and local schools have asked about how to implement this change that are not related what-so-ever to implementing public pre-k. In the Council’s opinion, this is not an acceptable tool.
- **Funding:** The funding structure proposed provides 100% **State** Share. But many of the questions I raise will not be truly covered within that slice of the pie of what is being called the “State Share.” This is, however, additional responsibility

and service. The mandate law requires 90% of costs to be paid but this proposal isn't that. (<https://legislature.maine.gov/doc/4893>)

I was also particularly troubled by the reply that the Committee received in the Questions and Responses Document presented to the Committee February 1, 2024 regarding the CDS Briefing – LD 1528. The question the Committee asked was why the State is not following §15753 which requires 100% of special education funding. The reply was that the statute has been found by the administration to be “conflicting, outdated, and cumbersome” and therefore a “non-applicable statute across many administrations.” As a citizen I am troubled by the implications of this. It appears to be saying that if a State Administration finds that legal statute is outdated and inappropriate instead of engaging in the sometimes-cumbersome process of editing or removing outdated statutes through a legislative process it is acceptable to just ignore it? I ask the Committee, please, if there are “conflicting, outdated, and cumbersome” Statutes help us change them through the legislative process so if there is a clear reason for the statute there is an opportunity for that reason to be clarified. I am concerned that this admitted practice promotes ignoring law. That isn't okay.

- **Children Today:** The most promising idea in this bill is to transition, ultimately, CDS into Regional Support Hubs. However, we are concerned that CDS will be asked to do too much and be set up to fail. CDS must continue serving the many hundreds of children that are eligible for services today. These children must not be ignored or worse, sacrificed. A clear plan must exist to take care of these children. While that is happening the excellent idea of the Regional Support Hubs can be developed thoughtfully and eventually brought to fruition when others are providing the Part B §619 services.

Thank you again for reading and taking seriously this testimony. I will be present for as many work sessions as possible. Thank you for this opportunity to provide input.

A handwritten signature in black ink, appearing to be 'R. Brown', written in a cursive style.

“Advocates Language”

Sec. W-01. 20-A MRSA §1 as amended by PL 2023, c.449 is further amended to read:

13-B. Inclusive, High-Quality Early Childhood Program. “Inclusive, high-quality early childhood program” is an early childhood program which does the following:

- Includes children with disabilities in early childhood programs in their community which they would participate in if they did not have a disability, so they can learn together with their peers without disabilities;
- Provides high-quality teaching and learning environments that support children’s development and allow all children to meet high expectations;
- Intentionally promotes children’s participation in all learning and social activities, facilitated by individualized accommodations and differentiated interventions and instruction;
- Uses high-quality, evidence-based services and supports that are developmentally appropriate, culturally and linguistically responsive, and that foster children’s—
 - Acquisition and use of knowledge and skills,
 - Use of appropriate behaviors to meet their needs,
 - Positive social emotional skills, including friendships with peers, and
 - Sense of belonging;
- Provides services and supports to children with disabilities in early childhood programs within their community with peers without disabilities, and within daily routines and learning and social activities;
- Recognizes families as collaborative partners, experts, and engaged decision-makers in their children’s lives and value and treat children with disabilities and their families with respect; and
- Ensures supports, such as screening and identification processes, early childhood program and school partnerships, access to and use of data, and PD are in place to enable early childhood programs and providers to successfully include children with disabilities and their families.

§7001. Definitions.

As used in this subpart, unless the context otherwise indicates, the following terms have the following meanings

1. Agency. “Agency” means ~~an~~ a public, quasi-governmental, or private agency, school, organization, facility or institution.

1-A. Child Development Services System. “Child Development Services System” means the state intermediate educational unit under section 7209, subsection 3, and any regional sites it chooses to establish regional sites and maintain, to ensure the provision of child find activities, early intervention services and, where designated by the commissioner, free, appropriate public education services to eligible children. As school administrative units begin to assume responsibility for ensuring a free appropriate public education for students under IDEA Part B Section 619, Child Development Services sites shall serve as regional service hubs, providing supports and resources to the local schools and other high-quality early childhood programs partnering with, or otherwise contracted by, an SAU to fulfill the SAU’s Part B Section 619 oversight obligations, as determined by memoranda of understanding between the department of education and the SAU.

1-A2. CDS Regional Site. CDS is organized into 9 regional sites across the state. By April 2024, these sites will be aligned with SAUs through the 9 Superintendent Regions.

1-A3. CDS Regional Service Support Hub. After responsibility for ensuring a free appropriate public education in the least restrictive environment transitions to the School Administrative Units, the Department of Education, via CDS, will support schools in serving children in each region through regional service hubs as determined by an MOU.

A. Each CDS Regional Support Hub shall, at a minimum, make the following services available to SAUs:

- Ongoing, both general and readiness assessment based training, technical assistance, and other professional development in the implementation of developmentally appropriate practices for young children, including curriculum and assessment selection and alignment to the Maine’s Early Learning and Development Standards
- Training, technical assistance, and other professional development in meeting obligations under IDEA Part B (e.g. understanding and meeting FAPE and LRE requirements; child find requirements and techniques; conducting the IEP process; development of individualized ESY goals; following due process procedural safeguards) and in complying with components of any preschool or other monitoring processes established by the Department of Education.
- Providing technical assistance to access billing MaineCare and private insurance for the provision of Part B special education and related services.
- Assisting SAUs with establishing or strengthening current partnerships in their communities with existing inclusive, high-quality early childhood programs (e.g., Head Start, local private child care programs, local private pre-K programs, and other community programs) to assist SAU’s with fulfilling their Part B Section 619 obligations
- Connecting SAUs to state efforts in early child care and education (e.g., MRTQ PDN, First4Me and HelpMEGrow).

B. Each CDS Regional Support Hub shall create and coordinate teams of properly credentialed educators, experts, and service providers whose services shall be available to SAUs on a contract basis, including:

- Supportive educational technicians
- Speech Therapists, Occupational Therapists, Physical Therapists, Assistive Technology experts
- [BCBAs and other behavioral support experts]

Services may be provided directly and/or on a consultative basis.

C. Each CDS Regional Service Hub shall employ or contract with a regional inclusion consultant. An inclusion consultant is an inclusion specialist with expertise in inclusive environment assessment; providing training related to inclusive practices; and creating and supporting the implementation of technical assistance plans to support inclusion, as well as the broader early care and education system. The inclusion consultant will have expertise in inclusion in both early care and public school environments and practices. The services available to SAUs by regional inclusion consultant shall include, at a minimum:

- Administration of Readiness Assessment
- Individualized planning, training and other technical assistance to help SAUs meet the requirements of the Readiness Assessment.
- Training with wraparound technical assistance, utilizing Maine based initiatives that support broad knowledge of the span of Birth-5 and public school inclusive practices with required staff participation of those who will interact with children with disabilities (leadership, teachers *special education and general*, educational technicians, and discipline-specific therapists).
- Advising SAUs as to expectations for inclusive, high-quality inclusive programs, including program standards that define inclusion;
- Assisting SAUs address any challenges creating barriers to inclusion.
- Supporting the assessment and implementation of principles of “universal design for learning” appropriate for educating all of Maine’s 3-5 population, with and without disabilities.
- Maintaining, referring, and providing access to a hub of expanded universal resources in Maine’s Expanding Inclusive Opportunities (MEIO) Initiative.

An SAU may enter into a memorandum of understanding with the CDS Regional Support Hub for any of the services described in this subsection 1-A3, to be provided to, or delivered within, any program run directly by the SAU or any high-quality early childhood program partnering with, or otherwise contracted by, an SAU to fulfill the SAU’s Part B Section 619 oversight obligations.

1-A4. Maine Preschool IDEA Monitoring Process. No later than 90 days after the enactment of this law will the Department of Education engage in the rulemaking process to define and develop the provision of the Maine Preschool IDEA Monitoring Process. The Maine Preschool IDEA Monitoring Process shall assure preschool children with disabilities have improved outcomes and access to a Free Appropriate Public Education (FAPE) in the individualized Least Restrictive Environment (LRE) as required by federal IDEA and State standards. The Maine Preschool IDEA Monitoring Process shall also track unmet and partially met needs for each SAU. This Process will define and implement a schedule to monitor SAU's using quantifiable indicators in order to adequately measure performance in SAU's provision of FAPE in the least restrictive environment, ability to engage in Child Find, transition to readiness, and other measures as required in IDEA 300.600, in §300.43 and in 20 U.S.C. 1437(a)(9).

1-B. Child with a disability. "Child with a disability" means:

A. For children from birth to under 3 years of age:

- (1) A child who needs early intervention services because the child has a significant developmental delay, as measured by both diagnostically appropriate instruments and procedures, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development; or
- (2) A child with a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay, with the condition being such that the child needs early intervention services; or

B. For children at least 3 years of age and under 22 years of age evaluated in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414, subsections (a) to (c) as measured by both standardized, norm-referenced diagnostic instruments and appropriate procedures with delays or impairments such that the children need special education:

- (1) A child at least 3 years of age and under 6 years of age with a significant developmental delay, at the discretion of the intermediate educational unit or school administrative unit, as defined in rules adopted by the department, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; adaptive development; or
- (2) A child with at least one of the following:
 - (a) Intellectual disability;
 - (b) Deafness, including hearing loss;
 - (c) Speech or language impairment;
 - (d) Visual impairment, including blindness;

- (e) Emotional disability;
- (f) Orthopedic impairment;
- (g) Autism;
- (h) Traumatic brain injury;
- (i) Other health impairment;
- (j) Specific learning disabilities;
- (k) Deaf-blindness; and
- (l) Multiple disabilities.

1-C. Early intervention services. "Early intervention services" means developmental services that are provided under public supervision; are provided at no cost except where federal or state law provides for a system of payments by families, including a schedule of sliding fees; are designed to meet the developmental needs of a child with a disability, as identified by the individualized family service plan team, in one or more areas including physical development, cognitive development, communication development, social or emotional development and adaptive development; meet the standards of the State; are provided by qualified personnel; to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and are provided in conformity with an individualized family service plan.

1-D. Child eligible under IDEA Part B Section 619. "Child eligible under IDEA Part B Section 619" means a pre-K student who is 3, 4, or 5 years of age and requires special education and related services in order to access a free, appropriate, public, education in a high-quality early childhood program, in the least restrictive environment pre-k classroom.

2. Exceptional student.

2-A. Free, appropriate public education. "Free, appropriate public education" means special education and related services that are provided at public expense, under public supervision and direction and without charge; meet the standards of the department; include an appropriate preschool, elementary school or secondary school education in the State; and are provided in conformity with the individualized family service plan or individualized education program. The Child Development Services System shall provide free, appropriate public education to a preschool child with disabilities who reaches 5 years of age between July 1st and October 15th if that child is already receiving free, appropriate public education through the Child Development Services System and the child's individualized education program team determines, in accordance with rules adopted by the commissioner, that it is in the best interest of the child not to enroll that child in kindergarten until the start of the following school year.

2-A-1. Inclusion consultant. An "inclusion consultant" means an inclusion specialist with expertise in inclusive environment assessment; providing training related to inclusive practices; and creating and supporting the implementation of technical assistance plans to support inclusion, as well as the broader early care and education system. The inclusion consultant shall have expertise in inclusion in both early care and public school environments and practices.

2-B. Inclusive, high-quality early childhood program. “Inclusive, high-quality early childhood program” has the same meaning as in section 1.

2-BC. Intermediate educational unit. "Intermediate educational unit" means an entity that meets the definition of intermediate educational unit in the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1402, (23) as in effect prior to June 4, 1997 and that is a public authority, other than a local educational agency, under the general supervision of the department, that is established for the purpose of providing free public education on a regional basis and that provides special education and related services to children with disabilities within the State. An intermediate educational unit is considered a local educational agency under federal law. In this State, a local educational agency is a school administrative unit. For purposes of this chapter all references to school administrative units include intermediate educational units.

2-CD. Individualized education program team. "Individualized education program team" means the group of individuals composed in accordance with Part B of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414(d)(1)(B) to determine the individualized education program for a child with a disability.

2-E. Local Early Childhood System Plan (LECSP). “LECSP” means a plan created with the local SAU and/or community early care and education settings to support areas identified in readiness assessments through technical assistance inclusive of training, consultation, coaching, modeling by credentialed consultants with expertise in quality and inclusive practices.

[3-A to 3-B are not repeated here.]

3-C. Extended Part C Option. “Extended Part C Option” allows families to continue early intervention programming through an Individual Family Service Plan after a child’s 3rd birthday. Children in Part C early intervention programs are evaluated when they turn 3 years of age and, if they continue to quality, they may either enroll in a pre-K classroom (i) receive Part B, Section 619 services in the least restrictive environment (e.g., an inclusive, high-quality early childhood program which may include Head Start, private childcare or preschool, another community setting, or public pre-K classroom) or (ii) they may remain in the “natural setting” (at home, at a childcare setting, or at another community based program) and continue to receive early intervention services under the extended Part C option. This option will be available in Maine beginning in March, 2024.

4-B. Readiness Assessment. “Readiness assessment” means evidence based assessments and state-aligned checklists that appraise the readiness of an SAU and community early childhood education settings measuring key features of quality, utilizing an inclusive practice lens, in the following areas (examples not exhaustive):

- Relationships between adults/children
- Family-Professional partnerships

- Monitoring children’s learning
 - Universal design for learning
 - Knowledge of accommodations, adaptations, and positive behavioral supports
 - Connection to existing early care and education systems with expertise in the 3-5 population
 - Ability to connect to supportive services adjacent to education-i.e.-childcare
 - Readiness to implement MELDS in curriculum
- Recommended Readiness Assessment Tools should be inline with these:
 - Maine’s Rising Stars for ME Inclusive Practices Checklist
 - Elena, S. P. (2016). Inclusive Classroom Profile, Research Edition. Brookes Publishing.

4-BC. Related Services. “Related services” means special education transportation and such developmental, corrective and other related services, as defined by the commissioner, as are required to assist children with disabilities to benefit from their special education programs.

5. Special education. "Special education" means specially designed instruction, at no cost to parents, to meet the unique needs of children with disabilities, as defined by the commissioner, including:

- A. Instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings; and
- B. Instruction in physical education.

6. Special education facility. "Special education facility" means a public or private school, or portion of a public or private school, intended for use in meeting the educational and related needs of children with disabilities.

6-A. State intermediate educational unit. “State intermediate educational unit” or “SIEU” means the state intermediate educational unit, Child Development Services, established in section 7104.

7. State licensed agency. "State licensed agency" means an institution or facility licensed by the State to provide education, emotional or mental health services, alcohol or drug rehabilitation, boarding care or other child care services to a person between the ages of 5 and 20 years. It includes:

- A. Facilities under Title 22, chapter 1661; and
- B. Community mental health services under Title 34-B, chapter 3, subchapter 3.
- C.
- D.

8. Children's residential care facility. "Children's residential care facility" is a facility defined in Title 22, section 8101, subsection 4.

9. Special education program. A "special education program" is a full-time or part-time educational program designed to provide an equal educational opportunity to children with disabilities through the delivery of special education services by qualified individuals.

10. Special education services. "Special education services" are educational services provided by qualified individuals as defined by the commissioner. Special education services must be provided by qualified individuals employed or contracted by the school administrative unit.

Sec. W-2. 20-A MRSA §7006 as enacted by PL 2005, c. 662 A20 is amended to read:
§7006. Responsibility.

Sec. W-2-A. 20-A MRSA §7201 as amended by PL 2023, c.450 is further amended to read:

§7201. Policy and purpose

The policy of the State for the education of children with disabilities is as follows.

1. Early Childhood Inclusion. Maine commits to the inclusion of each and every child with a disability with typically developing peers in all early childhood environments. Inclusion is defined as:

Joint Position statement from DEC and NAEYC:

Early childhood inclusion embodies the values, policies, and practices that support the right of every infant and young child and his or her family, regardless of ability, to participate in a broad range of activities and contexts as full members of families, communities, and society. The desired results of inclusive experiences for children with and without disabilities and their families include a sense of belonging and membership, positive social relationships and friendships, and development and learning to reach their full potential. The defining features of inclusion that can be used to identify high quality early childhood programs and services are access, participation, and supports.

1A. Equal educational opportunities. All students must be provided with equal educational opportunities and all school administrative units shall provide equal educational opportunities for all children with disabilities.

2. Least restrictive education alternative.

2-A. Natural or least restrictive environment. To the maximum extent appropriate:

A. Early intervention services must be provided in natural environments, including the home, and community settings in which children from birth to under 3 years of age without disabilities participate; and

B. Children with disabilities at least 3 years of age and under 22 years of age, including children in public or private institutions or other care facilities, must be educated with children without disabilities. Special classes, separate schooling or other removal of children with disabilities from the regular educational environment may occur only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

3. Students diagnosed as deaf. A student diagnosed as deaf must be educated with students without disabilities whenever possible and must be educated under the principle of the least restrictive educational environment as set forth in state laws and rules and federal laws and regulations.

4. Parent's right to be a member of the team. Parents, surrogate parents or guardians have the right to be a member of the team that will carry out duties and responsibilities in accordance with rules established by the commissioner.

5. Accessible instructional materials; visual impairment including blindness; Braille instruction. All students must have access to accessible instructional materials and may receive instruction in Braille as part of their individualized family service plans or individualized education programs. A student may not be denied the opportunity of instruction in Braille solely because the student has some remaining vision. If Braille is not provided to a child who is blind, the reason for not incorporating Braille in the individualized family service plan or individualized education program must be documented in the individualized family service plan or individualized education program. Accessible instructional materials and provisions for the accessibility of online learning programs for individuals with disabilities must be in alignment with the accessible instructional materials provisions of the federal Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446, 118 Stat. 2647 and in alignment with the universal design provisions of the 1998 amendments to the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 contained in the federal Higher Education Amendments of 1998, Public Law 105-244, 112 Stat. 1581.

6. Participation in cocurricular activities. Eligibility for a child with a disability to participate in cocurricular activities may not be denied solely because the student is enrolled in a reduced course load when the reduced course load is due to the student's disability, as long as the student is satisfactorily completing the requirements of the educational components of an individualized family service plan or individualized education program and is otherwise in compliance with the program. If the student is not satisfactorily completing the educational components of an individualized family service plan or individualized education program or is not otherwise in compliance with the program, the student's eligibility may be determined in the same manner as the eligibility of a child without disabilities who is not satisfying the applicable academic standards.

Sec. W-3. 20-A MRSA §7209, sub-§3 as amended by PL 2011, c. 655, Part OO, §4 is further amended to read:

3. State Intermediate educational unit establishment; administrative functions.

Sec. W-4. 20-A MRSA §7209, sub-§3-A as amended by PL 2017, c. 284, Part AAAAAA, §§1 is further amended to read:

3-A. State Intermediate educational unit; program functions.

Sec. W-5. 20-A MRSA §7209, sub-§4-A, ¶A-2 is enacted to read:

A-2. To aid in the transition of responsibility under IDEA Part B Section 619 for ensuring child find and a free appropriate public education in the least restrictive environment from CDS to SAUs and to coordinate services to be provided through memoranda of understanding to support schools in carrying out Part B Section 619 responsibilities.

Sec. W-56. 20-A MRSA §7209, sub-§9 is enacted to read:

9. Transition of responsibility for ensuring a free appropriate public education for children eligible under IDEA Part B Section 619 from CDS to school administrative units.

Notwithstanding any provision of this section to the contrary, beginning July 1, 2028, all school administrative units shall be designated as responsible for child find and for ensuring a free, appropriate public education for children eligible under IDEA Part B Section 619.

A. Transition schedule and supports.

1) By July 1, 2024, the department of education shall choose an early education for children readiness assessment for the inclusion of children with disabilities, to enable SAUs to prepare to undertake responsibility for ensuring the provision of Part B Section 619 Services.

1A) Throughout the 2024-2025 school year, and each thereafter through the completion of the transition of responsibility for Part B Section 619 services, the department shall provide training, technical assistance, and professional development to assist as SAUs prepare to meet the standards of the readiness assessment and maintain the availability of inclusive high-quality early childhood programs in their districts. As part of its assessment process, the department of education shall assess the resources and readiness for community partnerships and creation of individualized plans based on individual assessments of SAUs

1B) Throughout the 2024-2025 school year, and each thereafter through the completion of the transition, the department shall provide, at a minimum, the following services to SAUs:

- Ongoing response based training, technical assistance, and other professional development in the implementation of developmentally appropriate practices for young children, including curriculum and assessment selection and alignment to the Maine's Early Learning and Development Standards

- Training, technical assistance, and other professional development in meeting obligations under IDEA Part B (e.g., understanding and meeting FAPE and LRE requirements; conducting the IEP process; child find techniques; following due process procedural safeguards) and in complying with components of any preschool or other monitoring processes established by the department.
- Technical assistance to access billing MaineCare and private insurance for the provision of Part B special education and related services.
- Assistance to SAUs with establishing partnerships in their communities with existing inclusive, high-quality early childhood programs (e.g., Head Start, local private child care programs, local private pre-K programs, and other community programs) to assist SAU's with fulfilling their Part B Section 619 obligations
- Connecting SAUs to state efforts in early child care and education (e.g., MRTQ PDN, First4Me and HelpMEGrow).

1C) Throughout the 2024-2025 school year, and each thereafter through the completion of the transition, the department shall employ or contract with a regional inclusion consultant within each of the 9 CDS regions. An inclusion consultant is an inclusion specialist with expertise in inclusive environment assessment; providing training related to inclusive practices; and creating and supporting the implementation of technical assistance plans to support inclusion, as well as the broader early care and education system. The inclusion consultant will have expertise in inclusion in both early care and public school environments and practices. The services available to SAUs by regional inclusion consultant shall include, at a minimum:

- Administration of Readiness Assessment
- Individualized planning, training and other technical assistance to help SAUs meet the requirements of the Readiness Assessment.
- Training with wraparound technical assistance, utilizing Maine based initiatives that support broad knowledge of the span of Birth-5 and public school inclusive practices with required staff participation of those who will interact with children with disabilities (leadership, teachers *special education and general*, educational technicians, and discipline-specific therapists).
- Advising SAUs as to expectations for inclusive, high-quality inclusive programs, including program standards that define inclusion;
- Assisting SAUs address any challenges creating barriers to inclusion.
- Supporting the assessment and implementation of principles of “universal design for learning” appropriate for educating all of Maine’s 3-5 population, with and without disabilities.
- Maintaining, referring, and providing access to a hub of expanded universal resources in Maine’s Expanding Inclusive Opportunities (MEIO) Initiative.

1D) Throughout the 2024-2025 school year, and each thereafter through the completion of the transition, the department may create and coordinate teams of properly credentialed educators, experts, and service providers whose services shall be available to SAUs on a contract basis, including:

- Supportive educational technicians
- Speech Therapists, Occupational Therapists, Physical Therapists, Assistive Technology experts
- BCBAs and other behavioral support experts

An SAU may enter into a memorandum of understanding with the department for any of the services described in this subsection 9, to be provided to, or delivered within, any program run directly by the SAU or any high-quality early childhood program partnering with, or otherwise contracted by, an SAU to fulfill the SAU's Part B Section 619 oversight obligations. Services may be provided directly and/or on a consultative basis.

1E) We intend that the department is authorized to provisionally adopt major substantive rules on this topic and that they shall adopt emergency major substantive rules on this topic January 1, 2025.

1) 2) Beginning July 1st, 2024, SAUs may have the option, through an application process, pilot the responsibility that includes a plan for participation in ongoing readiness assessments ~~be approved~~ to pilot the assumption of responsibility for FAPE Part B Section 619 services for the 2024-2025 school year. The department will review and approve ready SAUs in accordance with the readiness assessment. ~~professional learning in working with young children and their families, and technical support will be provided by the department throughout the planning and implementation of the pilot year.~~ Funding will be provided on a quarterly basis, in accordance with Section 10. A memorandum of understanding will be created between the department and each SAU to determine the services to be provided by the department ~~regional CDS service hub~~ and will be reviewed and updated in response to unanticipated needs each month. Funding and programming will be monitored regularly by the department, led by a contracted State and National experts and recommended augmentations or changes will be considered as part of the pilot year activities. A midyear report and any recommended changes will be provided to the ECA in January.

2) 3) During the 2025, ~~and 2026, 2027,~~ school years, ~~additional SAUs will be approved as holding responsibility for Part B Section 619 implementation~~ the department will review and approve ready SAUs in accordance with the readiness assessment. A memorandum of understanding will be created between the department and each SAU to determine the services to be provided by the department ~~regional CDS service hub~~ and will be reviewed and updated in response to unanticipated needs each month. Funding and programming will be monitored regularly by the department, led by a contracted State and National experts and

recommended augmentations or changes will be considered as part of each SAU's first year of Part B Section 619 the pilot year activities. A midyear report and any recommended changes will be provided to the ECA in January.

3) 4) Those SAUs requiring additional time and support in regions where related services and staffing are not available to support this transition will be provided with necessary resources and an additional year and may qualify for a modified plan for managing Part B Section 619 students. However, this does indicate a lack of fully assuming responsibility for Part B Section 619 students.

5) Prior to the transition of responsibility of the provision of a FAPE to any SAU, CDS shall conduct a review of all files of students where the FAPE responsibility will transition to the SAU to identify whether legally required special education and/or related services have not been fully provided. In cases where legally required services have not been provided, CDS shall schedule an Individualized Education Program meeting to a) discuss what compensatory services are warranted for failure to fully implement the IEP; and b) develop a plan for each child to provide necessary compensatory services.

BC. Service provision. A school administrative unit may directly provide services or may contract with public or private providers and a school administrative unit may also access their CDS regional site to provide certain services as delineated in an MOU as defined in section 7001, subsection 1-A to provide services.

Sec. W-7. 20-A MRSA §7209, sub-10 is enacted to read:

10. Funding.

Sec. W-8. 20-A MRSA §7303. Preschool Special Education is enacted to read:
§7303. Preschool Special Education.

Sec. W-9. 20-A MRSA §7206 is amended to include:

8. Advocacy agency

A. Agency. The department shall contract with the agency designated pursuant to Title 5, section 19502, referred to in this section as "the agency," to provide the services described in subsection B.

B. Duties. The department shall contract with the agency to perform the following duties statewide.

(1) The agency shall receive complaints made by or on behalf of a child with a disability as that term is defined in the federal Individuals with Disabilities Education Act, 20 United States Code Section 1401(3).

(2) The agency may, with the consent of the parent, as that term is defined in the federal Individuals with Disabilities Education Act, 20 United States Code Section 1401(23), pursue legal, administrative and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of a child with a disability who is or may be eligible for services administered, licensed or funded by the department.

(3) The agency may refer a parent of a child with a disability to other agencies or entities and/or collaborate with those agencies or entities for the purpose of advocating for the rights of the child with a disability. And the agency may refuse to take action on any complaint that it considers to be trivial, to be moot or to lack merit or for which there is clearly another remedy available.

(4) The agency shall act as an information source regarding the rights of children with disabilities, keeping itself informed about all laws, administrative rules and institutional and other policies relating to the rights of children with disabilities under state and federal law.

(5) The agency may make and publish reports necessary to the performance of the duties described in this section. The agency may report its findings to groups outside the department, such as legislative bodies, advisory committees, commissions, law enforcement agencies and the press.

(6) The agency may monitor the delivery of services, supports and other assistance provided to children with disabilities for the purpose of ensuring that services, supports and assistance are delivered in conformity with laws, regulations, rules and other standards regarding quality of care.

C. Access to files, records and individuals. The agency has access, limited only by the civil service law, to the files, records and personnel of any provider of services, including the files and records of any child with a disability held by any provider of service, administered, licensed or funded by the department. And the agency has access to individuals pursuant to Title 5, section 19506.

D. Confidentiality. The following provisions govern confidentiality.

(1) Any request by or on behalf of child with a disability for action by the agency and all written records or accounts related to the request are confidential as to the identity of the individual.

(2) The records and accounts under paragraph (1) may be released only as provided by law.

(3) Records maintained by the agency are the sole property of the child with a disability to whom the records pertain and the agency shall protect the records from loss, damage, tampering or use by unauthorized individuals. The agency shall keep the records confidential and may not release them without written consent from the parent, as that term is defined in the federal Individuals with Disabilities Education Act, 20 United States Code Section 1401(23), of the child with a disability.